

CAUSE NO. CL-18-0207-F

NARCISO RIVERA SILVA	§	IN THE COUNTY COURT
PLAINTIFF	§	
	§	
vs.	§	AT LAW NUMBER _____
	§	
DOLLAR GENERAL STORE D/B/A	§	
DOLGEN CORP. OF TEXAS INC.	§	
DEFENDANT	§	HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION & DISCOVERY REQUESTS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, NARCISO RIVERA SILVA (hereinafter referred to by his name and/or as "PLAINTIFF") complaining of **DOLLAR GENERAL STORE D/B/A DOLGEN CORP. OF TEXAS INC.** (hereinafter referred to by name and/or as "DEFENDANT"), and for cause of action would respectfully show the Court the following:

I. DISCOVERY PLAN AND DISCOVERY REQUESTS

PLAINTIFF intends to conduct discovery under Level 2 pursuant to Rule 190, Texas Rules Civil Procedure.

PLAINTIFF requests pursuant to Rule 194, 196 and 197 that **DEFENDANT** disclose within fifty (50) days of filing of service of this request, the information or material described in Rule 194.2 A – L of the Texas Rules of Civil Procedure and the Interrogatories and Production herein attached as Exhibit "A". The original answers are to be forwarded to **PLAINTIFF'S** attorney of record.

II. PARTIES

PLAINTIFF is a resident of HIDALGO County, Texas.

DEFENDANT DOLLAR GENERAL STORE D/B/A DOLGEN CORP. OF TEXAS INC. is a business entity doing business in Texas, and may be served with process by serving the registered agent of said company at: CORPORATION SERVICES COMPANY, 211 E. 7TH ST., STE. 620, AUSTIN, TEXAS 78701 via certified mail return receipt requested or any other location where they may be found. Service of said Defendant as described above can be effected by any of the methods allowed by the Texas Rules of Civil Procedure.

III. JURISDICTION AND VENUE

PLAINTIFF brings this suit to recover damages against **DEFENDANT** for sustained losses, damages and personal injuries suffered by **PLAINTIFF** as a result of an incident occurred

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in HIDALGO County. **PLAINTIFF** has sustained damages in a monetary relief of LESS THAN \$75,000.00 within the jurisdictional requirements of this Court. Venue of this proceeding is proper in HIDALGO County, Texas, pursuant to Texas Civil Practice and Remedies Code Section 15.002. **PLAINTIFF'S** cause of action arose in HIDALGO County, Texas.

IV. STATEMENT OF FACTS

On or about JULY 18, 2016, **PLAINTIFF** NARCISCO RIVERA SILVA was a customer at **DEFENDANT** DOLLAR GENERAL store located AT 1406 W. Monte Cristo Rd in Edinburg, Hidalgo County, Texas. While shopping at **DEFENDANT'S** store, **PLAINTIFF** slipped and fell due to a substance left due to improper maintenance. As a result of the accident **PLAINTIFF** suffered severe personal injuries

V. CAUSES OF ACTION

PLAINTIFF has the following causes of action against **DEFENDANT**:

A. NEGLIGENCE

PLAINTIFF has a negligence cause of action against **DEFENDANT** because they meet the following required elements:

1. The **DEFENDANT** owed a legal duty to the **PLAINTIFF**;
2. The **DEFENDANT** breached the duty; and
3. The breach proximately caused the **PLAINTIFF'S** injuries.

B. PREMISES LIABILITY

PLAINTIFF has premises liability cause of action against **DEFENDANT** because they meet the following elements required in a cause of action brought by an invitee:

1. **PLAINTIFF** was an invitee;
2. The **DEFENDANT** was the possessor of the premises;
3. A condition on the premises posed an unreasonable risk of harm;
4. The **DEFENDANT** knew or reasonably should have known of the danger;
5. The **DEFENDANT** breached its duty of ordinary care by both:
 - (A) failing to adequately warn the **PLAINTIFF** of the condition, and
 - (B) failing to make the condition reasonably safe; and
6. The **DEFENDANT'S** breach proximately caused the **PLAINTIFF'S** injuries.

VI. PLAINTIFF'S DAMAGES

PLAINTIFF hereby pleads the following damages that were caused as a direct and proximate result of the occurrence made the basis of this lawsuit:

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- A. Reasonable medical care and expenses in the past. These expenses were incurred by **PLAINTIFF** for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in HIDALGO County, Texas;
- B. Reasonable and necessary medical care and expenses which in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future;
- I. Mental anguish in the past;
- J. Mental anguish in the future; and
- K. Disfigurement.

VII. PRAYER

WHEREFORE, **PLAINTIFF** requests that **DEFENDANT** be cited to appear and answer and that, on final trial, **PLAINTIFF** have the following:

- A. Judgment against **DEFENDANT** in monetary relief of less than \$75,000.00
- B. Prejudgment and post judgment interest as provided by law; and
- C. Such other relief to which **PLAINTIFF** may be justly entitled.

Respectfully submitted,

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EXHIBIT

“A”

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PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT

INTERROGATORY 1:

Identify each person answering these interrogatories, supplying information, or assisting in any way with the preparation of the answers to these interrogatories.

ANSWER:

INTERROGATORY 2:

Please provide us with a list of names of all of DEFENDANT'S employees who were working at the store where the incident made the basis of this lawsuit occurred on the date when the incident made the basis of this lawsuit occurred. Please include their job titles along with their job duties.

ANSWER:

INTERROGATORY 3:

Please provide us with the names of the employees, person, and/or company, who was responsible for the cleaning and/or maintenance of the store which caused PLAINTIFF's injury on the day of the incident made the basis of this lawsuit.

ANSWER:

INTERROGATORY 4:

If Defendant has been involved in a premises liability and or negligence lawsuits in the five (5) years before the accident made the basis of this lawsuit occurred, please provide us with the nature of the suit, the court where such suit took place, including the complete style of the cause of action, whether the PLAINTIFF was a PLAINTIFF or defendant in such litigation, the date such suit was filed and the final disposition of the case.

ANSWER:

INTERROGATORY 5:

Please provide us with the number of incidents that occurred around, near, or because of similar incidents involving liquid substance, and/or premises liability claims filed against Defendant in the five (5) years before the accident occurred.

ANSWER:

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PLAINTIFF'S FIRST SET OF REQUEST FOR PRODUCTION TO DEFENDANT

1. Please produce a copy of any incident reports filed by PLAINTIFF with Defendant on the day of the incident made the basis of this lawsuit.

RESPONSE:

2. Please produce a copy of any incident reports filed by PLAINTIFF with Defendant before the day of the incident made the basis of this lawsuit.

RESPONSE:

3. Please produce a copy of any incident reports filed by PLAINTIFF with Defendant after the day of the incident made the basis of this lawsuit.

RESPONSE:

4. Please produce a copy of any incident reports concerning improper maintenance that occurred on Defendant's premises for the 12 months preceding the accident made the basis of this lawsuit.

RESPONSE:

5. Please produce a copy of any incident reports concerning improper maintenance regarding the Plaintiff's incident that occurred on Defendant's premises for the 24 hours preceding the accident made the basis of this lawsuit.

RESPONSE:

6. Please produce a sample of the incident report form used by Defendant to document the slip and fall on Defendant's premises and/or other accidents that occurred on their premises.

RESPONSE:

7. Please produce any manuals, videos and/or booklets used by Defendant to train their employees in the handling of accidents occurred on their premises.

RESPONSE:

8. Please produce any manuals, videos and/or booklets used by Defendant to train their employees in filling out incident reports.

RESPONSE:

9. Please produce any documents describing Defendant's policies and procedures related to the liquid substance on Defendant's premises.

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RESPONSE:

10. Please produce any documents describing Defendant's policies and procedures related to the similar accidents on Defendant's.

RESPONSE:

11. Please produce a copy of any work schedules indicating the names of the employees who were working on the day of the accident made the basis of this lawsuit at the store where the accident made the basis of this lawsuit occurred.

RESPONSE:

12. Please produce the personnel files of the employees who were working for Defendant on the day of the accident made the basis of this lawsuit at the parking lot where the accident made the basis of this lawsuit occurred.

RESPONSE:

13. Please produce any contracts and/or written agreements with any companies and/or independent contractors responsible for Defendant and/or maintaining Defendant's premises during the time of the accident made the basis of this lawsuit.

RESPONSE:

14. Please produce any documents reflecting the names of employees, persons, companies and/or independent contractors who were responsible for cleaning and/or maintaining Defendant's premises for the last five years.

RESPONSE:

15. Produce copies of any and all correspondence, communications, letters, notes of oral communications, and all other documents or writing sent to or received from or exchanged by and between you and PLAINTIFF and their agents, employees, or representatives concerning the subject matter of this lawsuit.

RESPONSE:

16. Produce copies of all still photographs and videos that are relevant to any issue involved in this lawsuit, including, but not limited to photographs or videos that show the premises where the incident made the basis of this lawsuit occurred.

RESPONSE:

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PLAINTIFF'S FIRST SET OF REQUEST FOR ADMISSIONS TO DEFENDANT

REQUEST FOR ADMISSION NO. 1:

PLAINTIFF properly named defendant in PLAINTIFF's original petition.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 2:

Defendant owned the premises involved in the incident made the basis of this lawsuit.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 3:

Defendant had control of the premises involved in the incident made the basis of this lawsuit.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 4:

Defendant was in charge of maintaining the premises involved in the incident made the basis of this lawsuit.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 5:

Defendant's business was open to the public at the time of the incident occurred.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 6:

PLAINTIFF was a customer of Defendant's business on the date of the incident

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 7:

Defendant, after becoming aware of the improperly maintained area, did not clean the improperly maintained area until after the incident occurred.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 8:

Defendant caused the area to be unclean.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 9:

Defendant was aware of the risk of injury created by the condition of the area.

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ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 10.

Admit that Defendant negligence caused the area to have an unreasonably dangerous condition.

ANSWER: ADMIT OR DENY

REQUEST FOR ADMISSION NO. 11.

Admit that Plaintiff was not negligent at the time of the incident made the basis of this lawsuit.

ANSWER: ADMIT OR DENY